

2 HB 2126 - S AMD 364  
3 By Senator Brown

4 ADOPTED 04/18/01

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 28B.95.020 and 2000 c 14 s 1 are each amended to read  
8 as follows:

9 The definitions in this section apply throughout this chapter,  
10 unless the context clearly requires otherwise.

11 (1) "Academic year" means the regular nine-month, three-quarter, or  
12 two-semester period annually occurring between July 1st and June 30th.

13 (2) "Account" means the Washington advanced college tuition payment  
14 program account established for the deposit of all money received by  
15 the board from eligible purchasers and interest earnings on investments  
16 of funds in the account, as well as for all expenditures on behalf of  
17 eligible beneficiaries for the redemption of tuition units and for the  
18 development of any authorized college savings program pursuant to  
19 section 2 of this act.

20 (3) "Board" means the higher education coordinating board as  
21 defined in chapter 28B.80 RCW.

22 (4) "Committee on advanced tuition payment" or "committee" means a  
23 committee of the following members: The state treasurer, the director  
24 of the office of financial management, the executive director of the  
25 higher education coordinating board, or their designees, and two  
26 members to be appointed by the governor, one representing program  
27 participants and one private business representative with marketing,  
28 public relations, or financial expertise.

29 (5) "Governing body" means the committee empowered by the  
30 legislature to administer the Washington advanced college tuition  
31 payment program.

32 (6) "Contractual obligation" means a legally binding contract of  
33 the state with the purchaser and the beneficiary establishing that  
34 purchases of tuition units will be worth the same number of tuition  
35 units at the time of redemption as they were worth at the time of the  
36 purchase.

1 (7) "Eligible beneficiary" means the person for whom the tuition  
2 unit will be redeemed for attendance at an institution of higher  
3 education. The beneficiary is that person named by the purchaser at  
4 the time that a tuition unit contract is accepted by the governing  
5 body. With the exception of tuition unit contracts purchased by  
6 qualified organizations as future scholarships, the beneficiary must  
7 reside in the state of Washington or otherwise be a resident of the  
8 state of Washington at the time the tuition unit contract is accepted  
9 by the governing body.

10 (8) "Eligible purchaser" means an individual or organization that  
11 has entered into a tuition unit contract with the governing body for  
12 the purchase of tuition units for an eligible beneficiary.

13 (9) "Full-time tuition charges" means resident tuition charges at  
14 a state institution of higher education for enrollments between ten  
15 credits and eighteen credit hours per academic term.

16 (10) "Institution of higher education" means an institution that  
17 offers education beyond the secondary level and is recognized by the  
18 internal revenue service under chapter 529 of the internal revenue  
19 code.

20 (11) "Investment board" means the state investment board as defined  
21 in chapter 43.33A RCW.

22 (12) "State institution of higher education" means institutions of  
23 higher education as defined in RCW 28B.10.016.

24 (13) "Tuition and fees" means undergraduate tuition and services  
25 and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded  
26 to the nearest whole dollar. The maximum tuition and fees charges  
27 recognized for beneficiaries enrolled in a state technical college  
28 shall be equal to the tuition and fees for the community college  
29 system.

30 (14) "Tuition unit contract" means a contract between an eligible  
31 purchaser and the governing body, or a successor agency appointed for  
32 administration of this chapter, for the purchase of tuition units for  
33 a specified beneficiary that may be redeemed at a later date for an  
34 equal number of tuition units.

35 (15) "Unit purchase price" means the minimum cost to purchase one  
36 tuition unit for an eligible beneficiary. Generally, the minimum  
37 purchase price is one percent of the undergraduate weighted average  
38 tuition and fees for the current year, rounded to the nearest whole  
39 dollar, adjusted for the costs of administration and adjusted to ensure

1 the actuarial soundness of the account. The analysis for price setting  
2 shall also include, but not be limited to consideration of past and  
3 projected patterns of tuition increases, program liability, past and  
4 projected investment returns, and the need for a prudent stabilization  
5 reserve.

6 (16) "Weighted average tuition" shall be calculated as the sum of  
7 the undergraduate tuition and services and activities fees for each  
8 four-year state institution of higher education, multiplied by the  
9 respective full-time equivalent student enrollment at each institution  
10 divided by the sum total of undergraduate full-time equivalent student  
11 enrollments of all four-year state institutions of higher education,  
12 rounded to the nearest whole dollar.

13 (17) "Weighted average tuition unit" is the value of the weighted  
14 average tuition and fees divided by one hundred. The weighted average  
15 is the basis upon which tuition benefits ((are)) may be calculated  
16 ((for graduate program enrollments and for attendance at nonstate  
17 institutions of higher education and is)) as the basis for any refunds  
18 provided from the program.

19 NEW SECTION. Sec. 2. A new section is added to chapter 28B.95 RCW  
20 to read as follows:

21 (1) The committee may establish a college savings program. If such  
22 a program is established, the college savings program shall be  
23 established, in such form as may be determined by the committee, to be  
24 a qualified state tuition program as defined by the internal revenue  
25 service under section 529 of the internal revenue code, and shall be  
26 administered in a manner consistent with the Washington advanced  
27 college tuition payment program. The committee, in planning and  
28 devising the program, shall consult with the state investment board,  
29 the state treasurer, a qualified actuarial consulting firm with  
30 appropriate expertise to evaluate such plans, the legislative fiscal  
31 and higher education committees, and the institutions of higher  
32 education.

33 (2) Up to two hundred thousand dollars of administrative fees  
34 collected from guaranteed education tuition program participants may be  
35 applied as a loan to fund the development of a college savings program.  
36 This loan must be repaid with interest before the conclusion of the  
37 biennium in which the committee draws funds for this purpose from the  
38 advanced college tuition payment program account.

1 (3) If such a college savings program is established, the college  
2 savings program account is created in the custody of the state  
3 treasurer for the purpose of administering the college savings program.  
4 If created, the account shall be a discrete nontreasury account in the  
5 custody of the state treasurer. Interest earnings shall be retained in  
6 accordance with RCW 43.79A.040. Disbursements from the account, except  
7 for program administration, are exempt from appropriations and the  
8 allotment provisions of chapter 43.88 RCW. Money used for program  
9 administration is subject to the allotment provisions, but without  
10 appropriation.

11 (4) The committee, after consultation with the state investment  
12 board, shall determine the investment policies for the college savings  
13 program. Program contributions may be invested by the state investment  
14 board or the committee may contract with an investment company licensed  
15 to conduct business in this state to do the investing. The committee  
16 shall keep or cause to be kept full and adequate accounts and records  
17 of the assets of each individual participant in the college savings  
18 program.

19 (5) Neither the state nor any eligible educational institution may  
20 be considered or held to be an insurer of the funds or assets of the  
21 individual participant accounts in the college savings program created  
22 under this section nor may any such entity be held liable for any  
23 shortage of funds in the event that balances in the individual  
24 participant accounts are insufficient to meet the educational expenses  
25 of the institution chosen by the student for which the individual  
26 participant account was intended.

27 (6) The committee shall adopt rules to implement this section.  
28 Such rules shall include but not be limited to administration,  
29 investment management, promotion, and marketing; compliance with  
30 internal revenue service standards; application procedures and fees;  
31 start-up costs; phasing in the savings program and withdrawals  
32 therefrom; deterrents to early withdrawals and provisions for hardship  
33 withdrawals; and reenrollment in the savings program after withdrawal.

34 (7) The committee may, at its discretion, determine to cease  
35 operation of the college savings program if it determines the  
36 continuation is not in the best interest of the state. The committee  
37 shall adopt rules to implement this section addressing the orderly  
38 distribution of assets.

1       **Sec. 3.** RCW 28B.95.110 and 2000 c 14 s 8 are each amended to read  
2 as follows:

3       (1) The intent of the Washington advanced college tuition payment  
4 program is to redeem tuition units for attendance at an institution of  
5 higher education. Refunds shall be issued under specific conditions  
6 that may include the following:

7       (a) Certification that the beneficiary, who is eighteen years of  
8 age or older, will not attend an institution of higher education, will  
9 result in a refund not to exceed the current weighted average tuition  
10 and fees in effect at the time of such certification minus a penalty at  
11 the rate established by the internal revenue service under chapter 529  
12 of the internal revenue code. No more than one hundred tuition units  
13 may be refunded per year to any individual making this certification.  
14 The refund shall be made no sooner than ninety days after such  
15 certification, less any administrative processing fees assessed by the  
16 governing body;

17       (b) If there is certification of the death or disability of the  
18 beneficiary, the refund shall be equal to one hundred percent of any  
19 remaining unused tuition units (~~valued~~) at the current (~~weighted~~  
20 ~~average tuition units~~) value, as determined by the governing body, at  
21 the time that such certification is submitted to the governing body,  
22 less any administrative processing fees assessed by the governing body;

23       (c) If there is certification by the student of graduation or  
24 program completion, the refund shall be as great as one hundred percent  
25 of any remaining unused (~~weighted average~~) tuition units at the  
26 current value, as determined by the governing body, at the time that  
27 such certification is submitted to the governing body, less any  
28 administrative processing fees assessed by the governing body. The  
29 governing body may, at its discretion, impose a penalty if needed to  
30 comply with federal tax rules;

31       (d) If there is certification of other tuition and fee  
32 scholarships, which will cover the cost of tuition for the eligible  
33 beneficiary. The refund shall be equal to one hundred percent of the  
34 current (~~weighted average~~) value of tuition units, as determined by  
35 the governing body, in effect at the time of the refund request,  
36 (~~plus~~) less any administrative processing fees assessed by the  
37 governing body. The refund under this subsection may not exceed the  
38 value of the scholarship;

1 (e) Incorrect or misleading information provided by the purchaser  
2 or beneficiaries may result in a refund of the purchaser's investment,  
3 less any administrative processing fees assessed by the governing body.  
4 The value of the refund will not exceed the actual dollar value of the  
5 purchaser's contributions; and

6 (f) The governing body may determine other circumstances qualifying  
7 for refunds of remaining unused tuition units and may determine the  
8 value of that refund.

9 (2) With the exception of subsection (1)(b), (e), and (f) of this  
10 section no refunds may be made before the units have been held for two  
11 years.

12 **Sec. 4.** RCW 43.79A.040 and 2000 c 79 s 45 are each amended to read  
13 as follows:

14 (1) Money in the treasurer's trust fund may be deposited, invested,  
15 and reinvested by the state treasurer in accordance with RCW 43.84.080  
16 in the same manner and to the same extent as if the money were in the  
17 state treasury.

18 (2) All income received from investment of the treasurer's trust  
19 fund shall be set aside in an account in the treasury trust fund to be  
20 known as the investment income account.

21 (3) The investment income account may be utilized for the payment  
22 of purchased banking services on behalf of treasurer's trust funds  
23 including, but not limited to, depository, safekeeping, and  
24 disbursement functions for the state treasurer or affected state  
25 agencies. The investment income account is subject in all respects to  
26 chapter 43.88 RCW, but no appropriation is required for payments to  
27 financial institutions. Payments shall occur prior to distribution of  
28 earnings set forth in subsection (4) of this section.

29 (4)(a) Monthly, the state treasurer shall distribute the earnings  
30 credited to the investment income account to the state general fund  
31 except under (b) and (c) of this subsection.

32 (b) The following accounts and funds shall receive their  
33 proportionate share of earnings based upon each account's or fund's  
34 average daily balance for the period: The college savings program  
35 account, the Washington advanced college tuition payment program  
36 account, the agricultural local fund, the American Indian scholarship  
37 endowment fund, the basic health plan self-insurance reserve account,  
38 the Washington international exchange scholarship endowment fund, the

1 developmental disabilities endowment trust fund, the energy account,  
2 the fair fund, the game farm alternative account, the grain inspection  
3 revolving fund, the juvenile accountability incentive account, the  
4 rural rehabilitation account, the stadium and exhibition center  
5 account, the youth athletic facility ((grant)) account, the self-  
6 insurance revolving fund, the sulfur dioxide abatement account, and the  
7 children's trust fund. However, the earnings to be distributed shall  
8 first be reduced by the allocation to the state treasurer's service  
9 fund pursuant to RCW 43.08.190.

10 (c) The following accounts and funds shall receive eighty percent  
11 of their proportionate share of earnings based upon each account's or  
12 fund's average daily balance for the period: The advanced right of way  
13 revolving fund, the advanced environmental mitigation revolving  
14 account, the federal narcotics asset forfeitures account, the high  
15 occupancy vehicle account, the local rail service assistance account,  
16 and the miscellaneous transportation programs account.

17 (5) In conformance with Article II, section 37 of the state  
18 Constitution, no trust accounts or funds shall be allocated earnings  
19 without the specific affirmative directive of this section.

20 NEW SECTION. **Sec. 5.** Section 3 of this act is necessary for the  
21 immediate preservation of the public peace, health, or safety, or  
22 support of the state government and its existing public institutions,  
23 and takes effect July 1, 2001."

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26 ADOPTED 04/18/01

27 On page 1, line 1 of the title, after "programs;" strike the  
28 remainder of the title and insert "amending RCW 28B.95.020, 28B.95.110,  
29 and 43.79A.040; adding a new section to chapter 28B.95 RCW; providing  
30 an effective date; and declaring an emergency."

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